
UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Helen Donald,

Plaintiff,

Civ. No. 07-3597 (RHK/JJK)
ORDER FOR JUDGMENT

v.

Jeffery Beliveau; Shelly Beliveau;
Timothy Beliveau; West Bay Capital, Inc.;
U.S. Housing & Financial Services, LLC;
U.S. Housing Services, LLC; Elite Title
Services, Inc.; and Shelly "Doe"

Defendants.

U.S. Bank, National Association, as Trustee,

Intervenor/Third-Party Plaintiff,

v.

Mortgage Electronic Registration Systems, Inc.,
as nominee for First Guaranty Mortgage Corp.
and Julie E. Beliveau-Maahs,

Third-Party Defendants.

This matter came before the Court upon stipulation between Plaintiff Helen Donald and U.S. Bank, National Association, as Trustee ("US Bank"), and upon US Bank's Motion for Default Judgment (Doc. No. 47). A hearing was held on June 29, 2010. Michael E. Kreun appeared on behalf of U.S. Bank. There were no other appearances.

FINDINGS OF FACT

1. None of the Third-Party Defendants has answered the claims in the Third-Party Complaint or otherwise appeared in this action. The default of each of the Third-Party Defendants was entered by the Clerk of the Court on December 4, 2009.

2. The claims in this case, including those asserted in the Third-Party Complaint, relate to real property located in Hennepin County, Minnesota, legally described as **Lot 17, Shepley and Mill's Addition** (the "Property").

3. On October 15, 2004, Jeffrey Beliveau granted a purchase money mortgage to fund the purchase of the Property, in the amount of \$148,800.00 in favor of Mortgage Electronic Registration Systems, Inc. ("MERS"), as nominee for First Guaranty Mortgage Corporation ("First Guaranty"), which was recorded December 8, 2004, with the Hennepin County Recorder as document number 8486621 (the "First Mortgage").

4. On October 15, 2004, Beliveau granted a second and junior purchase money mortgage for \$27,900.00 in favor of MERS, as nominee for First Guaranty, recorded December 8, 2004, with the Hennepin County Recorder as document number 8486622 (the "Second Mortgage").

5. MERS, as nominee for First Guaranty, assigned its interest in the First Mortgage to U.S. Bank National Association, as Trustee ("U.S. Bank"), by assignment of mortgage dated March 15, 2007, recorded March 21, 2007, with the Hennepin County Recorder as document number 8952948.

6. Beliveau's personal obligations under the note that the First Mortgage secures have been discharged in a Chapter 7 bankruptcy proceeding in the United States

Bankruptcy Court for the Middle District of Florida, court file no. 8:07-bk-12218. US Bank did not seek a personal judgment against Beliveau on the Note.

7. Beliveau is in default under the terms of the First Mortgage for failure to make monthly payments due under the Note.

8. The First Mortgage is a valid and enforceable lien on the Property capable of being foreclosed by advertisement pursuant to Minnesota Statutes Chapter 580 or by action pursuant to Minnesota Statutes Chapter 581.

9. The First Mortgage has priority over any interest in the Property claimed by Plaintiff Helen Donald, Jeffery Beliveau, and Julie E. Beliveau-Maahs.

10. The First Mortgage has priority over the Second Mortgage.

11. The terms of the relief sought by this Motion are justified by the facts shown in the accompanying affidavit and attachments and the pleadings filed with the Court.

12. The claims by and between Helen Donald and U.S. Bank, as Trustee, have been settled pursuant to a separate settlement agreement.

Based on the foregoing, and all the files, records, and proceedings herein, **IT IS ORDERED** as follows:

1. US Bank's Motion for Default Judgment (Doc. No. 47) is **GRANTED**;

2. Judgment shall be entered that:

a. The First Mortgage dated October 15, 2004, and recorded December 8, 2004, with the Hennepin County Recorder as document number 8486621 is a valid and enforceable mortgage on the real property legally described as **Lot 17, Shepley and**

Mill's Addition and is capable of being foreclosed by advertisement pursuant to Minnesota Statutes Chapter 580 or by action pursuant to Minnesota Statutes Chapter 581;

b. The First Mortgage is prior, paramount and superior to all interests in the Property of Jeffery Beliveau, or anybody claiming through him;

c. The First Mortgage is prior, paramount and superior to all interests in the Property of Third-Party Defendant Julie E. Beliveau-Maahs, or anybody claiming through her;

d. The First Mortgage is prior, paramount and superior to the Second Mortgage; and

e. Any right, title, or interest in the Property claimed by Plaintiff is subordinate to the First Mortgage;

3. Any and all claims by Plaintiff Helen Donald against U.S. Bank, National Association, as Trustee, are **DISMISSED WITH PREJUDICE** and without costs and fees to either party; and

4. All remaining claims in this action are **DISMISSED WITH PREJUDICE.**

LET JUDGMENT BE ENTERED ACCORDINGLY.

Date: July 20, 2010

s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge